

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tazwell L. Anderson Jr., et al.

Serial No.: 09/386,613

Filed: August 31, 1999

Art Unit: 2611

Examiner: Vu, Ngoc K.

For: AUDIO/VIDEO SYSTEM AND METHOD
UTILIZING A HEAD MOUNTED
APPARATUS WITH NOISE ATTENUATION

DECLARATION UNDER 37 CFR 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I, the undersigned, declare and state as follows:

1. I have reviewed and understand the specification and drawings of U.S. Application 09/386,613 (hereafter "Subject Application").
2. I have reviewed and understand the claims of the Subject Application as presented herewith in an Amendment being filed on the same date as this Declaration (hereafter "Claimed Invention"). We, the undersigned, are joint inventors of the Claimed Invention of the Subject Application.
3. The Claimed Invention was conceived of by the undersigned at least prior to August 1, 1998.

FACTS AND DOCUMENTARY EVIDENCE

4. Factual evidence proving the statements made in this Declaration can be found in the documents attached at Appendices A-D (Hereafter "Appendices A-D") to my prior Declaration filed under 37 CFR 1.132 on July 15, 2005 (hereafter "July 15 Declaration"). The complete content of the July 15 Declaration and the Appendices A-D to the July 15 Declaration is expressly incorporated herein by reference, but has not been attached hereto, to avoid undue duplication of papers in the Patent Office file. The facts and statements made in the July 15 Declaration and the Appendices A-D to the July 15 Declaration are true and shall be considered as if expressly restated in this Declaration under 37 C.F.R. 1.131.

5. The undersigned conceived of the Claimed Invention for a portable audio/visual device to be used at sporting event by a spectator while watching the sporting event live to enhance the spectators experience on or before June of 1998.

6. Appendix A to the July 15 Declaration sets forth portions of a powerpoint presentation prepared by the undersigned in connection with developing an operating prototype of the claimed invention. On information and belief, the presentation was prepared in June of 1998. The presentation was intended for a Mr. Billy Jones, a potential investor. The presentation covered, among other things, a demonstration of a head mounted display, a discussion of the business model, a discussion of the business plan implementation, as well as the financial requirements. In the head mounted display demonstration, an i-Glasses device was provided with stereo sound from the speakers and a 3D capability was presented in the display. Two 320 pixel by 240 pixel LCDs were used for the display. A video tape of a race-cam video with 3D animation was presented on the head mounted display device. The i-Glass device included a display, noise reduction devices to be placed over both ears and speakers to play select audio signals.

7. As shown in the Business Model portion of the presentation sections at Appendix A to the July 15 Declaration, the Claimed Invention represents an innovative concept that capitalized on a unique opportunity. A combination of off-the-shelf technologies was arranged in a new and unique manner. The off-the-shelf technologies utilized a HMD display to be carried by the user while at he sporting event. An improved LCD and improved circuitry were to be added to the HMD device, and repackaged in a new enclosure to be carried by the user while at the sporting event. A walkman-style TV tuner would be provided for receiving the audio and image signals. The tuner would also be carried by the user while at the sporting event. A rechargeable battery would be used to drive the device. The race-cam video at an auto race would be received by the HMD device as a direct signal or through wireless re-transmission from a control van having a transmitting tower thereon that was located near enough the sporting event such that the sporting event would be within the broadcast range of the transmitter.

8. By the time of the preparation of the presentation set forth at Appendix A to the July 15 Declaration, the Claimed Invention had sufficiently developed to prepare specific revenue projections for the 1998 NASCAR racing year. As shown in the slide titled "Revenue Generation Within 9-12 Months", the unit cost for retail sale was projected to be \$500, with a \$50 per race rental fee target. In the 1998 NASCAR schedule, 59 races occurred in the Winston and Busch Series' races combined. A Gross Profit per season per Unit was projected at \$2950 which was then extrapolated per season for various targeted numbers of unit sales.

9. Appendix B to the July 15 Declaration constitutes an email communication between Mark Wood and Steve Ochs. The email correspondence was sent on or about June 29, 1998 attaching a presentation, a portion of which is set forth at Appendix A to the July 15 Declaration.

10. Appendix C to the July 15 Declaration sets forth an email communication between Mark Wood and a consultant, on or about July 1, 1998. In the July 1 correspondence, it is explained that a video tape race-cam in car footage was generated and combined with the 3D animation and stereoscopic 3D video HMD device. Thus, by July 1, 1998, the HMD device shown in Appendix A was used to present audio and image signals (still or video) from an auto race event.

11. Appendix D to the July 15 Declaration sets forth correspondence from Mark Wood on July 2, 1998 discussing the retransmission signals from 7-15 cars as a multiplexed signal on a wireless carrier frequency that is received by the individual units with the head mounted display device while being carried by the user while at the sporting event. The user would select the desired car of choice which is de-multiplexed from the carrier, thereby enabling the user the option "to be in any car", as opposed to having units tuned only to a specific car. Thus, by July 2, 1998, we had conceived of the embodiment in which multiplexed, modulated audio and image signals were transmitted wirelessly to a receiver, from which an user selected desired signals while the user carried the device and watched the sporting event live.

12. Based on the foregoing facts, the claimed invention was at least conceived by the inventors on or before June of 1998.

13. The undersigned inventors were diligent from the conception of the claimed invention, up through actual reduction to practice and up through constructive reduction to practice of the claimed invention, by filing the subject application with the U.S. Patent and Trademark Office on August 31, 1999. The Subject Application claims priority from U.S. Patent Application Serial No. 09/322,411 which was filed on May 28, 1999; from Provisional Application Serial No. 60/123,341, filed on March 8, 1999; and from Provisional Application Serial No. 60/137,323 filed June 3, 1999.



DECLARATION

As the person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application and any patent issued thereon.

SIGNATURE

SOLE INVENTOR(S)

Full Name: Tazwell L. Anderson Jr.

Signature: Tazwell L. Anderson Jr.

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PATENT
Attorney Docket No.: 20973-12

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SIGNATURE

SOLE INVENTOR(S)

Full Name: Mark A. Wood

Signature: 

Date: 11/9/05

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Citizenship: US

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